



MEMO

TO: House Regulatory Reform Committee Members
FROM: Michigan Retailers Association
SUBJECT: HB 5962 - 5963
DATE: November 28, 2012

Michigan Retailers Association is the unified voice of Michigan's retail industry and represents more than 12,000 stores across the state. Liquor and lottery licenses are a very important part of our members' business.

House Bills 5962-5963 sponsored by Representative Dave Agema attempt to crack down on food assistance fraud at the store level. This legislation is too rigid and goes too far.

Most importantly, adequate penalties already exist at both the state and federal level for food assistance fraud and these penalties should be utilized and enforced. For example, the proposed legislation states that if a person is administratively disqualified from a food assistance program or convicted of a crime under MCL 750.300a(1)(b)&(c) their license will be suspended or revoked. If the business is administratively disqualified from a food assistance program, the business will no longer be able to engage in the fraud this legislation seeks to quash. Moreover, if a conviction occurs under MCL 750.300a(1)(b)&(c) penalties may be up to 10 years in prison and/or a fine of \$250,000. More penalties are unnecessary when there are existing tools that are not being utilized.

Second, the proposed legislation strips discretion from the liquor and lottery commissioners who are best equipped to evaluate licensure. Lottery and Liquor commissioners are otherwise afforded discretion to determine whether a license should be suspended or revoked:

- Lottery commissioner: "The commission **may** suspend or revoke the license of an agent who violates this act or a rule promulgated under this act." MCL 432.23(10) (emphasis added).
- Liquor commissioner: "[T]he commission **may** suspend or revoke the licensee's license and any permit held in conjunction with that license." MCL 436.1501(3) (emphasis added).

By using the term "shall", the legislation eliminates the ability of the commissioners to exercise discretion and apply a fact-based analysis when there has been a violation.

Third, the legislation is simply too severe; a single violation can lead to the revocation of a license. On the other hand, a single violation of the liquor control code does not result in a license revocation. For example, a local legislative body may request that an off-premises liquor license be revoked if the licensee sells alcohol to a minor on three separate occasions in a 12-month period. MCL 436.1501(3). In other words, repeat offenses must occur before a license is revoked. The same standard should be applied here. A violation of a food assistance program should not create a harsher penalty than a violation of the liquor control code. Under the single offense scenario, a business could be liable for a rogue employee's actions, even if the business was acting in good faith and had procedures in place to ensure compliance.

Fourth, this legislation creates severe penalties for a few bad actors while the majority of license holders are good corporate citizens that support the community.

MRA strongly discourages food assistance fraud and urges compliance with all applicable laws. However, we strongly oppose the current form of these bills. Removing the often difficult to acquire liquor and/or lottery license from a store would cripple most stores and force them to close. MRA urges committee members to consider the devastating impact this legislation could have on retailers.

If you have any questions please do not hesitate to contact me at 517-372-5656.

Thank you,

A handwritten signature in blue ink, appearing to read "William J. Hallan".

William J. Hallan
Vice President Government Affairs and General Counsel
Michigan Retailers Association